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BROADCAST MUSIC, INC. et al.

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 BROADCAST MUSIC, INC. et al.,

14 Plaintiffs,

15 v.

16 G&M GAME CORPORATION; KRAZY  
17 KOYOTE BAR & GRILL; GEORGE D.  
HEADLEY, JR. & MARCOS ANTHONY  
HEADLEY, each individually,

18 Defendants.  
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No. C07-02453 CRB

Action Filed: May 8, 2007

DECLARATION OF JUDITH M.  
SAFFER IN SUPPORT OF  
PLAINTIFFS' BROADCAST MUSIC,  
INC. et al.'s NOTICE OF MOTION AND  
MOTION FOR SUMMARY  
JUDGMENT

Date: December 14, 2007  
Time: 10:00 a.m.  
Place: Courtroom 8, 19th Floor  
Judge: Hon. Charles R. Breyer

Trial Date: None Set

HOWARD  
RICE  
NEMEROVSKI  
CANADY  
FALK  
& RABKIN  
A Professional Corporation

1 I, Judith M. Saffer, declare as follows:

2 1. I am Assistant General Counsel of Plaintiff Broadcast Music, Inc. ("BMI"). I  
3 make this declaration of my own personal knowledge, except as indicated, and could testify  
4 to the facts stated herein if called upon to do so. I am familiar with the facts and  
5 circumstances in this matter as well as BMI's structure and operation. This declaration is  
6 submitted in support of Plaintiffs' Motion for Summary Judgment.

7 2. Through agreements with copyright owners such as music publishing companies  
8 and independent composers, BMI acquires non-exclusive public performance rights. BMI  
9 has acquired such rights from each of the other Plaintiffs in this action. BMI, in turn, grants  
10 to music users such as broadcasters and the owners and operators of concert halls,  
11 restaurants, nightclubs and hotels, the right to publicly perform any of the works in BMI's  
12 repertoire by means of "blanket license agreements."

13 3. BMI operates as a non profit-making performing rights organization. It  
14 distributes all of its income, after deducting operating expenses and reasonable reserves, to  
15 its affiliated songwriters and music publishers, which include the other Plaintiffs in this  
16 action.

17 4. The Complaint in this action alleges multiple claims of copyright infringement of  
18 certain musical compositions licensed by BMI, the copyrights of which are owned by the  
19 other Plaintiffs, arising out of unauthorized public performances of those musical works.  
20 Each of the musical compositions listed on line 2 of the Schedule of Plaintiffs' Complaint  
21 was registered with the Copyright Office on the date listed on line 5. A registration certifi-  
22 cate bearing the number listed on line 6 was issued by the Copyright Office to the Plaintiff  
23 listed on line 4 or a predecessor in interest. Copies of the certificates and subsequent docu-  
24 mentation relating to the chain of ownership of the musical compositions are attached hereto  
25 as Exhibit A. This documentation, which I have reviewed, consists of copies of official  
26 Copyright Office records and copies of documentation made and kept in the ordinary course  
27 of Plaintiffs' business.

28 5. On or before the date listed on line 7 of the Schedule, BMI had been granted, by

1 the other Plaintiffs, the right to publicly perform these compositions and to issue public per-  
2 formance license agreements to music users. These licenses permit music users to perform  
3 any of the 4.5 million musical compositions in the BMI repertoire. In addition, BMI has  
4 been granted by the other Plaintiffs the right to maintain actions for infringement of the  
5 public performance rights in their musical compositions and to seek damages for such  
6 infringement.

7 6. A copy of Plaintiffs' First Request for Admissions to Defendants is attached as  
8 Exhibit B.

9 I declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that the foregoing is  
10 true and correct.

11 DATED: November 1, 2007.

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14 JUDITH M. SAFFER

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